

APPEAL NO. 020909  
FILED MAY 30, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held March 4, 2002. The hearing officer resolved the issues before him by determining that the appellant (claimant) was not entitled to supplemental income benefits for the first, second, third, fourth, and fifth compensable quarters. The claimant appealed, challenging the determinations on sufficiency grounds. The respondent (self-insured) responded, urging affirmance and noting that the claimant's appeal was not timely filed.

DECISION

The hearing officer's decision has become final pursuant to Section 410.169, because the claimant's appeal was not timely filed with the Texas Workers' Compensation Commission (Commission).

The applicable law governing this case, Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), requires that an appeal, to be timely, must be filed or mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission not later than the 20th day after the date of receipt of the hearing officer's decision. A party who wishes to appeal the decision and order must file a request for review not later than 15 days after the date on which the decision is received from the Commission's Division of Hearings, pursuant to Section 410.202, which was amended June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in the Government Code in the computation of the 15-day appeal and response periods.

Records of the Commission show that the hearing officer's decision was distributed Thursday, March 7, 2002, with a cover letter of the same date. The claimant alleged that he had been served the decision on Wednesday, March 20, 2002. However, the claimant was deemed to have received the hearing officer's decision on the fifth day after it was distributed to the parties, Tuesday, March 12, 2002. Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 102.5(d) (Rule 102.5(d)).

Using the deemed receipt date of March 12, 2002, the request for review in this case had to be mailed no later than Wednesday, April 3, 2002, and received by the Commission no later than Wednesday, April 10, 2002. The claimant's request for review was postmarked Thursday, April 11, 2002, and received by the Hearings Division of the Commission Monday, April 15, 2002. The claimant's appeal was thus neither postmarked within the 15-day time frame required by the rule nor received by the Commission within the 20-day time frame. The claimant's appeal is therefore untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final under Section 410.169.

The true corporate name of the insurance carrier is **(a certified self-insured)** and the name and address of its registered agent for service of process is

**JT  
(ADDRESS)  
(CITY), TEXAS (ZIP CODE).**

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Gary L. Kilgore  
Appeals Judge

CONCUR:

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Elaine M. Chaney  
Appeals Judge

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Thomas A. Knapp  
Appeals Judge